

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROMAN KAINZ,

Plaintiff,

v.

BRUCE T. BERNSTEIN, RICHARD K.
ABBE, ANDREW R. HEYER, DONALD E.
STOUT, SALVATORE GIARDINA, JOHN
ENGELMAN, ANDREW D. PERLMAN,
WILLIAM PHOENIX, and XPRESSPA
GROUP, INC. f/k/a FORM HOLDINGS
CORP.,

Defendants.

Civil Action No. 1:19-cv-02499

NOTICE OF MOTION

PLEASE TAKE NOTICE that, upon the Proposed First Amended Complaint, annexed hereto, the accompanying memorandum of law, dated December 11, 2019, and all other pleadings and proceedings heretofore had herein, plaintiff Roman Kainz (the “Plaintiff”) shall move this Court, before the Hon. Louis L. Stanton, United States District Judge, in Courtroom 21C, at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, NY 10007, for an Order granting the following relief:

(1) Pursuant to Fed. R. Civ. P. 59(e) and 60(b)(1) and (2) and Local Civil Rule 6.3: Reconsideration of the Court’s Order, entered November 13, 2019 (Docket No. 57) (“Order”), which granted defendant’s motion to dismiss, and upon reconsideration, vacatur of said Order and the Judgment, entered November 14, 2019 (Docket No. 58) that followed and denying Defendants’ motion to dismiss as to Plaintiff’s cause of action for fraudulent inducement;¹ and

(2) Pursuant to Fed. R. Civ. P. 15(a)(2): Leave to amend the complaint in the form

¹ Plaintiff reserves all rights regarding the other aspects of the Order and Judgment, including the right to appeal.

of the Proposed First Amended Complaint annexed hereto as Exhibit A;

PLEASE TAKE FURTHER NOTICE that the time and date of this motion will be fixed by the Court, including the scheduling of oral argument, if any, and that the service of papers is governed by Local Civil Rule 6.1(b) which provides in pertinent part as follows:

(2) any opposing affidavits and answering memoranda shall be served within fourteen days after service of the moving papers, and
(3) any reply affidavits and memoranda of law shall be served within seven days after service of the answering papers. In computing periods of days, refer to Fed. R. Civ. P. 6 and Local Civil Rule 6.4.

Dated: New York, New York
December 11, 2019

Respectfully submitted,

CKR Law LLP

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